

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Lloyd Hinn, Jr.,**  
Appellant,

**v.**

**Johnson County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-52-0191**

**Parcel No. 0636127006**

On February 7, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Lloyd Hinn, Jr. of HHB, Inc. Property Tax Consultants represents CW Coralville, LLC and requested a written consideration. Assistant County Attorney Andy Chappell represented the Board of Review. The Appeal Board now, having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Lloyd Hinn, Jr. protested on behalf of CW Coralville LLC the owner of property located at 2491 Holiday Road, Coralville, Iowa. The real estate was classified commercial on the January 1, 2013, assessment and valued at \$4,023,500 representing \$1,026,000 in land value and \$2,997,500 in improvement value. According to the property record card, the subject is a three-story, extended stay hotel/motel built in 2007 with 34,126 square feet of gross building area and seventy-four rooms. It has typical hotel accoutrements such as paved parking area, yard lights, fencing, and signage. The site is 1.472 acres.

Hinn protested the assessment to the Johnson County Board of Review on the grounds that the assessment was not equitable as compared with the assessments of other like property and that the

property was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1) and (2). He asserted the correct fair market value is \$2,459,000. The Board of Review denied the protest. Hinn then appealed to this Board.

Hinn submitted three properties he considered equity comparables. The following chart summarizes these properties.

Parcel #	Hotel Name	Room Count	AV/Room	Assessed Value
1005436004	Baymont	103	\$25,349	\$2,611,100
0636206001	Country Inn	76	\$41,742	\$3,172,400
0636128002	Americinn	76	\$32,493	\$2,469,500
		Average	\$33,195	

Hinn asserts the average assessed-value-per-room should be used to value the subject property, which would result in a total assessment of \$2,456,430. He asserts this conclusion is similar to the 2012 assessment of \$2,459,000, which he believes validates his conclusion that the 2013 assessed value should not have changed from the previous year.

Of the three properties Hinn submitted, only the Americinn recently sold. It sold in August 2010 for \$2,450,000. In order to prove inequity, an assessment/sales ratio analysis is necessary. The analysis typically compares prior year sale prices (2012 sales) to the current year's assessment (2013 assessment) to determine the assessment/sales ratio. For this reason, we give this evidence no consideration.

Additionally, to support his claim that the subject property should be valued on a per-room basis, Hinn submitted a decision from the State of Nebraska Tax Equalization and Review Commission regarding the 2011 assessment of an 80-room hotel located in Omaha, Nebraska. We do not find the Nebraska decision relevant to this appeal and give it no consideration.

Hinn also provided an appraisal of the subject property completed by Keith J. Westercamp of Appraisal Associates Company, Cedar Rapids, Iowa. Westercamp opined a fee simple market value

for the subject property of \$3,125,000, with \$200,000 allocated to the furniture, fixtures, and equipment (FF&E), as of August 4, 2011. He developed and considered the income and sale comparison approaches. He concluded an opinion of \$3,125,000 by the income approach and \$3,100,000 by the sales comparison approach. His reconciled conclusion gave all consideration to the income approach.

Westercamp analyzed actual income of the subject property from fiscal year 2009, 2010, and the first half of 2011. We note the actual net operating income (NOI), Westercamp reported had an upward trend as follows:

Jan to Dec 2009 NOI – \$77,033.59  
Jan to Dec 2010 NOI – \$184,786.15  
Jan to July 2011 NOI – \$177,938.47

(Report p. 66). Because the actual NOI was trending upward, we are hesitant to rely on Westercamp's 2011-forecasted income analysis, as it may not accurately reflect the income potential of the subject property as of January 1, 2013. Additionally, we are critical of his income approach because he reduced the net operating income by the amount of the estimated real property taxes, and he actually used the current assessment as a basis for the taxes. Because this valuation is for ad valorem tax assessment, taxes would not normally be included as an expense and instead a loaded capitalization rate would be used.

Westercamp also developed the sales comparison approach, which is the preferred method of valuation under Iowa law. While we find he employed reasonable methodology, we are hesitant to rely on sales that occurred in 2009, 2010, and 2011. Westercamp states that "property values have been increasing for land in this area" and even though he notes there have been few improved property sales because of the recession, he asserts, "activity appears to be picking up in 2011." (Report p. 31). He further notes the subject property serves an under-represented segment of the market and that the market has shown real growth. (Report p. 45). Because of Westercamp's observations are of a

growing market as of the effective date of the appraisal, we believe the determination of value for August 2011 may not reflect the January 1, 2013, market. Moreover, Westercamp explained his final value opinion relied almost exclusively on his income analysis, which we declined to rely on as previously noted.

Lastly, Westercamp reported the subject had transferred in January 2011 for \$4,809,000. This is confirmed by the Declaration of Value (DOV), which was submitted by the Board of Review. (Exhibit B). The DOV indicates the sale accounted for \$623,000 in personal property and \$4,186,000 in real property. Westercamp states the 2011 sale of the subject property was “not a market transaction” (Report p. 4); however, he does not provide any explanation of how he arrived at this opinion. On his appeal to this Board, Hinn asserts the transfer was a consolidation of two partners and an assumption of debt including such things as operating expenses and interest. Regardless, neither party is asserting the 2011 sale price of the subject property is the correct market value as of January 1, 2013, and we give it no consideration.

The Board of Review submitted the warranty deed from the sale, the DOV, a copy of an unreleased mortgage on the subject property and information from the Recorder’s Office. (Exhibits A-D). We do not find this information relevant to determining the fair market value of the subject as of January 1, 2013, and give it no consideration.

The Board of Review also submitted a memorandum explaining the assessment history and a brief description of how the Assessor’s Office valued the subject property. The Johnson County Assessor’s Office completed a revaluation of all commercial property for the 2013 assessment year. The property owner reported a gross income of \$1,081,879 on 76% occupancy. However, the Assessor’s Office used a 50% occupancy rate, which is found to be more typical for this type of hotel. Further, it based its opinion on a gross income of \$675,250 and an NOI of \$465,921. It capitalized the NOI by a loaded capitalization rate of 11.58%, resulting in a rounded assessed value of \$4,023,500.

In response to the Board of Reviews evidence, Hinn provided a one-page letter, which was received by PAAB on February 5, 2014. There is no indication that a copy of the letter was sent to the Board of Review. Moreover, the date of hearing was February 7, 2014, and Hinn's rebuttal was not timely submitted. We, therefore, give it no consideration.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

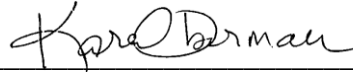
Hinn’s evidence did not establish inequity in the assessment under either test. He failed to supply any sales data for comparable or similarly situated properties to complete an assessment/sales-ratio analysis. Additionally, although Hinn believes the property should be valued on a per-room basis, the assessment was completed using the income approach. Thus, Hinn did not show the assessor applied an assessment method in a non-uniform manner to similarly situated properties. For these reasons, we find Hinn has failed to provide sufficient evidence to support a claim the subject property was inequitably assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa

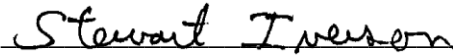
1995). Hinn submitted an appraisal completed by Keith Westercamp with an effective date of August 2011. Westercamp developed the income and sales comparison approaches to value, and gave exclusive consideration to the income approach. The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method.” *Compiano*, 771 N.W.2d at 398 (emphasis added). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). Westercamp was able to find comparable sales for his 2011 opinion, during a time that he cites as a recession. Further, Westercamp asserts the market was improving as of August 2011. Because sales of hotel properties were found during a period when the commercial market was reported as depressed, we are not convinced more recent sales would not be available during a time the commercial market is improving. For this reason, we are hesitant to rely on an a nearly 18-month old appraisal for a January 1, 2013, assessment date. However, even considering the income approach to value, we find flaws with Westercamp’s analysis and because he indicates the market was increasing as of August 2011, we do not find it reflective of a January 1, 2013, market value. Thus, Hinn has failed to meet his burden on appeal.

THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 2491 Holiday Road, Coralville, Iowa, is affirmed.

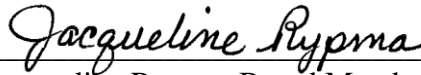
Dated this 18th day of March 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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